

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO.6725 OF 2015

Digamber S/o Vilas Kamble ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

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Mr.S.S.Jadhavar, advocate for the petitioner.
Mr.P.N.Kutti, A.G.P. for the State.
Mr.S.S.Manale, advocate for Respondent No.3.

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**CORAM : S.V.GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

Date : 04.04.2017.

PER COURT :

1. Heard.

2. The application filed by the petitioner seeking appointment on compassionate ground is not considered.

3. Mr.Jadhavar, learned counsel submits that the father of the petitioner was working as a permanent employee. Upon the death of the father of the petitioner, the family pension is also sanctioned and is being paid. The learned counsel submits that the petitioner ought to have been considered for appointment on compassionate ground. The Rules as applicable to permanent employee were made applicable in case of service of the father of the petitioner.

3. Mr.Manale, learned counsel submits that the father of the petitioner was working as hand pump operator. It was a supernumerary post, as such the case of the petitioner is not considered.

4. There appears to be a Resolution passed by the Respondent applying the Service Rules to the hand pump operator with retrospective effect. The said Resolution it appears has been passed on 19.12.2003. It is not disputed that the father of the petitioner was working with the Respondent No.2 and the father of the petitioner expired

while in service. The family pension sanctioned to the family of the deceased also contains a note that in case appointment is given on compassionate ground, the Dearness Allowance would not be permissible. The Resolution also is passed saying that the service Rules would be admissible to the hand pump operators.

5. Considering the aforesaid conspectus of the matter, the Respondents ought to have considered the application of the petitioner for appointment on compassionate ground on merits.

6. In light of the above, the impugned order is quashed and set aside. The Respondents shall consider the application of the petitioner for appointment on compassionate ground and shall not reject it on the ground on which impugned order was passed. The same be considered expeditiously, preferably within three (3) months.

7. The Writ Petition is disposed of. No costs.

(SANGITRAO S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

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